

LV-34-7



EXHIBIT G010014L:C

ORDINANCE NO. 3038

AN ORDINANCE AMENDING TITLE 22 OF THE SAN LUIS OBISPO COUNTY CODE, THE  
LAND USE ORDINANCE, CHAPTER 22.22 BY AMENDING SECTION 22.22.150 AND  
ADDING SECTIONS 22.22.152 AND 22.22.154 RELATING TO  
CLUSTER DIVISIONS IN THE AGRICULTURE LAND USE CATEGORY

The Board of Supervisors of the County of San Luis Obispo ordains as follows:

**SECTION 1:** Section 22.22.150 of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended as follows:

**22.22.150 - Agricultural Lands Clustering.**

It is the policy of the Board to encourage the preservation of agricultural lands in San Luis Obispo County for the continuing and enhanced production of food and fiber through the use of a variety of policy and regulatory techniques. One technique, provided by this Section, is the clustering of allowable dwelling units on relatively small parcels in agricultural areas instead of the dispersal of such units on larger parcels.

- A. **Purpose.** The purpose of Sections 22.22.150, 22.22.152 and 22.22.154 is to establish a set of regulations which encourages clustering as an alternative to a conventional lot split where an agricultural land division is proposed consistent with Agriculture and Open Space Element and Section 22.22.040. Sections 22.22.152 and 22.22.154 contain two methods for the approval of an agricultural cluster subdivision, Major Agricultural Lands Clustering and Minor Agricultural Lands Clustering. In addition to complying with the standards set forth in this Section and Sections 22.22.152 and 22.22.154, proposed cluster land divisions shall be specifically evaluated for consistency with the policies of the Agriculture and Open Space Element as follows:

**1. Major Agricultural Cluster Projects**

- a. Properties in the unincorporated areas of the county that are located outside the coastal zone, that are partly or entirely within five miles of a urban or village reserve lines, and that comply with the locational criteria in Sections 22.22.152 A. and B can apply for a major agricultural cluster.
- b. To encourage the use of clustering, the maximum number of residential parcels allowed in a major agricultural cluster project shall be equivalent to the number of primary dwellings normally allowed on the parcels that would result from a conventional land division in the Agriculture land use category based on the minimum parcel size criteria in Section 22.22.040 (a combination of the use and land capability tests may be used). Except, where Section 22.22.040B1b(4) limits the residential use, the number of parcels is instead based on two primary dwellings per parcel. A Major Agricultural Cluster project could result in a maximum parcel bonus of 100% over a conventional land division. Major Agricultural Cluster projects may be reduced down to 26 percent of the maximum potential allowance, if proposed by the applicant, in order to mitigate potential impacts of the project.

2. **Minor Agricultural Cluster Projects**

- a. Properties throughout the unincorporated areas of the county that meet the locational criteria in Section 22.22.154 A, including the coastal zone, can apply for a minor agricultural cluster project.
- b. The **maximum** number of residential parcels allowed in a Minor Agricultural Cluster project shall be equivalent to the number of parcels that would result from a conventional land division in the Agriculture land use category based on the minimum parcel size criteria in Section 22.22.040, with an increase of at least one more parcel or up to a maximum 25 percent increase in the number of parcels that could be achieved with a conventional land division.

B. **Applicable requirements.** The following requirements apply to both Major and Minor Agricultural Cluster projects.

1. **Eligibility of lands under Agricultural Preserve Contract.** Lands in the Agriculture land use category under Williamson Act contract shall not be used as the location for clustered parcels; provided that where an ownership includes contiguous contracted and non-contracted lands, the number of parcels and dwelling units normally allowable under the terms of the Agricultural Preserve contract and the provisions of this Title may be clustered on the non-contracted lands within the same ownership in the Agriculture or Rural Lands land use categories in compliance with this Section.
2. **Permit requirement.** Conditional Use Permit approval pursuant to Section 22.62.060, shall occur at the same time as approval of a tentative map. Conditional Use Permit approval shall include conditions specifying a phasing schedule for the filing of a final tract or parcel map, where applicable, the installation of required improvements and a date for termination of the entitlement in the event the use is not established within the specified schedule.
3. **Application content.** In addition to the information required by Section 22.62.060, the Conditional Use Permit application for a cluster project shall also include a written explanation by the applicant of how the proposed project will satisfy all the required findings specified in Subsection B.5.
4. **Environmental review.** After acceptance of an application for cluster development pursuant to Section 22.60.050, an initial study on the project shall be prepared in compliance with the California Environmental Quality Act (CEQA) and the Environmental Review Process Guidelines. The initial study shall closely examine the potential impacts on the long-term protection of the agricultural, environmental and biological resources, as well as the availability of, and potential impacts on, resources such as water, traffic, air quality, schools and other public services and facilities. Whether or not an Environmental Impact Report must be prepared will be determined by the initial study.
5. **Required findings.** Approval of a Major or Minor Agricultural Cluster project shall not occur unless the Review Authority first makes all findings required by Section 22.62.060.C.4. and also finds that:

- a. The proposed project will result in the continuation, enhancement and long-term preservation of agricultural resources and operations consisting of the production of food and fiber on the subject site and in the surrounding area.
  - b. The proposed project has been designed to:
    - (1) Locate proposed development to avoid and buffer all prime agricultural soils on the site, other agricultural production areas on the site, as well as agricultural operations on adjoining properties;
    - (2) Minimize, to the maximum extent feasible, the need for construction of new roads by clustering new development close to existing roads;
    - (3) Avoid placement of roads or structures on any environmentally sensitive habitat areas;
    - (4) Minimize impacts of non-agricultural structures and roads on public views from public roads and public recreation areas;
    - (5) Cluster proposed residential structures, to the maximum extent feasible, so as to not interfere with agricultural production and to also be consistent with the goal of maintaining the rural character of the area;
    - (6) Minimize risks to life and property due to geologic, flood and fire hazard and soil erosion.
  - c. The proposed project will not result in any significant land use compatibility impacts affecting on-site or off-site agricultural operations, including but not limited to trespass, vandalism, and complaints about agricultural practices.
  - d. The water resources and all necessary services are adequate to serve the proposed development, including residential uses, as well as existing and proposed agricultural operations on the subject site and in the site vicinity.
  - e. The proposed clustered development and the conditions, covenants and restrictions governing the Homeowners Association and/or individual lots are adequate to ensure permanent maintenance of the lands to remain in agricultural production and/or open space.
6. **Access.** Clustered developments in compliance with this Section shall be allowed only on ownerships with access to an existing paved, county or state maintained road.
- (1) **Ownership and maintenance of roads.** Unless otherwise required by the Review Authority, all interior roads and utilities shall be privately-owned and maintained and the applicant shall demonstrate through conditions, covenants and restrictions or other means that the project residents shall maintain all private roads and utilities for the life of the project.

7. **Site layout criteria.** The design and development of a Major or Minor Agricultural Cluster project shall be consistent with the following standards:

- a. No structural development shall occur on soils with a Natural Resources Conservation Service classification of I or II, except that agricultural accessory structures and agricultural processing uses may be allowed on sites up to 2.5 acres in size, subject to Minor Use Permit approval, where the applicant can demonstrate that no other suitable area is available for such uses and that the proposed uses are directly related to maintaining and enhancing on-site agricultural operations.
- b. Residential building sites and access drives shall be located within the boundaries of the overall ownership with sufficient separation from exterior property lines in order that the Review Authority can find that the clustered development will not result in adverse impacts on off-site agricultural operations in the site vicinity consistent with agricultural buffer policies adopted by the Board.
- c. Roads and building sites shall be located to minimize site disturbance and visibility from public roads.
- d. Driveway access intersections with off-site roads shall be minimized.

8. **Agricultural land/open space preservation.**

- a. **Requirements for preservation.** Clustered developments in compliance with this Section, and Sections 22.22.152 and 22.22.154 shall provide for the long-term preservation of portions of the site proposed to meet the open space requirements of Section 22.22.152D or 22.22.154D. All open space parcels shall be of a minimum size to qualify as a separate parcel consistent with Section 22.22.040 (Parcel Size - Agriculture Category). In addition, the parcel(s) shall qualify for a stand alone Williamson Act preserve and contract under the current county Rules of Procedure and must be covered by a permanent agricultural open space easement.
- b. **Areas included in open space.** The open space area provided may include all areas in agricultural production (including directly related infrastructure such as roads and wells), but shall not include any portion of the proposed clustered residential parcels.
- c. **Structural uses allowed in defined open space areas.** The area proposed for agricultural land and/or open space preservation is not to be developed with structural uses other than:
  - (1) A ranch/farm headquarters including up to two of the residential units allowed pursuant to Subsection B9, residential accessory structures and farm support housing, which may be approved or modified after the initial Conditional Use Permit approval through Minor Use Permit, provided that the building site does not exceed 2.5 acres.
  - (2) Areas set aside for the preservation of historic buildings identified by the Land Use Element, to be delineated on the recorded map.

- (3) Agricultural accessory structures or agricultural processing uses essential to the continuing agricultural production of food and fiber in the immediately surrounding area, which may be approved or modified after the initial Conditional Use Permit approval through Minor Use Permit, which shall not occupy an aggregate area of the site larger than five acres.
- d. **Nonstructural uses allowed in defined open space areas.** The following nonstructural uses may be allowed in the open space areas: crop production and grazing; animal raising and keeping; specialized animal facilities; nursery specialties (nonstructural); range land or wildlife preserves; water storage or recharge; leachfield or spray disposal area; scenic area protection or buffers from hazardous areas; public outdoor recreation uses on non-prime lands, or other similar open space uses; and roads/turnarounds directly serving the agricultural use.
- e. **Guarantee of open space.** The required open-space parcel(s) shall be maintained as open space as long as the clustered lots exist. This shall be guaranteed by either of the following methods:
  - (1) A recorded, permanent agricultural open-space easement granted to the county and placement in a stand alone Land Conservation Act (Williamson Act) preserve and contract in the Williamson Act Agricultural Preserve Program.
  - (2) Transfer of fee title free and clear of any liens, or dedication of a perpetual easement to a qualified public or private non-profit organization (as defined by the regulations of the Internal Revenue Service) created for the purposes of protecting and managing resources.
9. **Number of dwellings.** Residential units within a cluster project shall be limited to a ratio of one dwelling unit per clustered parcel, except that farm support housing may be authorized in addition to the units allowed by this Subsection through the approval of the overall project Conditional Use Permit, or subsequent Minor Use Permit approval, in compliance with the standards of Section 22.30.480.
10. **Homeowners association.** A homeowners association shall be formed and membership shall be mandatory for each home buyer and successive buyer if there are open space areas held in common by the homeowners. The homeowners association shall be responsible for the permanent maintenance of the open space areas held in common, if any, by the homeowners. An assessment system, or other form of subsidy shall be required to ensure compliance with this provision.

**SECTION 2:** Add new Section 22.22.152 of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, as follows:

#### **22.22.152 - Major Agricultural Cluster:**

- A. **Eligible areas of the county.** The use of clustering in the Agriculture or Rural Lands categories may be considered on ownerships that are in agricultural use at the time of application. Use of the provisions of this Section may occur only on properties that are partly or entirely within five (5) miles of the Urban Reserve Lines (URL's) of Arroyo Grande, Atascadero, San Luis Obispo, San Miguel, Nipomo, Paso Robles, and Santa Maria and the Creston Village Reserve Line (VRL).





C. Allowed number of parcels:

1. **Base parcel calculation.** The base parcel calculation shall be equivalent to the number of parcels that would result from a conventional land division in the Agriculture land use category based on the minimum parcel size criteria specified in Section 22.22.040 (Parcel Size - Agriculture Category).
2. **Bonus Parcel Calculation.** The maximum number of residential parcels allowed in a Minor Agricultural Cluster project shall be equivalent to the number of base parcels calculated in compliance with Subsection C.1., with a parcel bonus of at least one additional parcel, up to a maximum of 25 percent.

D. **Lot size and open area requirements.** The minimum size of clustered residential parcels in a Minor Agricultural Cluster project, and the area of the site required for open space preservation shall be as follows:

Minimum Lot Size		Minimum Open Space
20,000 Sq. Ft.	5 Acres	90%

Notes:

1. Net area.
2. A minimum lot size less than 2-1/2 acres may be granted only when community water is provided. A minimum lot size less than one acre may be granted only where the leaching capacity of site soils for septic tank use is from 0 to 5 minutes per inch, or where community sewer is provided.
3. The minimum area is expressed as a percentage of the gross site area.
4. Larger parcel sizes may be approved by the Review Authority where requested by the applicant and justified based on specific site characteristics, provided that the minimum open space area requirement is met.

**SECTION 4.** That the Board of Supervisors has considered the initial study prepared and conducted with respect to the matter described above. The Board of Supervisors has, as a result of its consideration, and the evidence presented at the hearings on said matter, determined that the proposed negative declaration as heretofore prepared and filed as a result of the said initial study, is appropriate, and has been prepared and is hereby approved in accordance with the California Environmental Quality Act and the County's regulations implementing said Act. The Board of Supervisors, in adopting this ordinance, has taken into account and reviewed and considered the information contained in the negative declaration approved for this project and all comments that were received during the public hearing process. On the basis of the Initial Study and any comments received, there is no substantial evidence that the adoption of this ordinance will have a significant effect on the environment.

**SECTION 5.** If any section, subsection, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, such decision shall not affect the validity or constitutionality of the remaining portion of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

SECTION 6: This ordinance shall take effect and be in full force on and after 30 days from the date of its passage hereof. Before the expiration of 15 days after the adoption of this ordinance, it shall be published once in a newspaper of general circulation published in the County of San Luis Obispo, State of California, together with the names of the members of the Board of Supervisors voting for and against the ordinance.

SECTION 7: This ordinance shall not apply to any vesting tentative map / conditional use permit application for an agricultural cluster on file with the County of San Luis Obispo that was submitted prior to August 10, 2004.

INTRODUCED at a regular meeting of the Board of Supervisors held on the 10th day of August, 2004, and PASSED AND ADOPTED by the Board of Supervisors of the County of San Luis Obispo, State of California, on the 14th day of September, 2004, by the following roll call vote, to wit:

AYES: Supervisors Shirley Bianchi, Chairperson Harry L. Ovitt, Peg Pinard, K.H. 'Katcho' Achadjian

NOES: Supervisor Michael P. Ryan

ABSENT: None

ABSTAINING: None

HARRY L. OVITT

Chairman of the Board of Supervisors,  
County of San Luis Obispo,  
State of California

ATTEST:

JULIE L. RODEWALD

County Clerk and Ex-Officio Clerk  
of the Board of Supervisors  
County of San Luis Obispo, State of California

By: CHEMIE AISPURO  
Deputy Clerk

[SEAL]

ORDINANCE CODE PROVISIONS APPROVED  
AS TO FORM AND CODIFICATION:

JAMES B. LINDHOLM, JR.  
County Counsel

By: \_\_\_\_\_  
Deputy County Counsel

Dated: \_\_\_\_\_